

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JIMMY J. McAFEE, et. al.,	)	Case No.: 5:11-CV-00821-LHK
	)	
Plaintiffs,	)	ORDER GRANTING MOTION OF ROD
	)	K. TANNER TO WITHDRAW
v.	)	APPEARANCE; CONTINUING
	)	HEARING ON DEFENDANT FRANCIS'
THOMAS FRANCIS, et. al.,	)	MOTION TO DISMISS; AND
	)	GRANTING PLAINTIFFS' REQUEST
Defendants.	)	FOR EXTENSION OF TIME TO
	)	RESPOND TO DEFENDANT
	)	NEPTUNE'S ACCOUNT'S MOTION TO
	)	QUASH AND DISMISS

On November 1, 2011, Attorney Rod K. Tanner ("Tanner"), Counsel of Record for Plaintiffs Jimmy J. McAfee, Jayna Sutherland, and Mona Sutherland (collectively "Plaintiffs") in this action, filed a Motion to Withdraw Appearance. *See* ECF No. 36. Tanner's stated grounds for his motion to withdraw are, *inter alia*, Plaintiffs' refusal to pay compensation for his legal services and refusal to consent to his withdrawal. *See* Mot. at 3-4. Plaintiffs subsequently consented on November 24, 2011 to substitution of Mark Lapham as counsel of record in place of Tanner. *See* ECF No. 46.

The Court finds this matter appropriation for resolution without oral argument. *See* Civil L.R. 7-1(b). The hearing on the Motion to Withdraw set for December 8, 2011 at 1:30 p.m. is

1 accordingly VACATED. In light of Plaintiffs' consent to the substitution of counsel, and for good  
2 cause shown, the Court hereby GRANTS Tanner's Motion to Withdraw Appearance. *See* Civil L.  
3 R. 11-5; Cal. R. Prof. Conduct 3-700(C)(5) (permissive withdrawal allowed when client  
4 "knowingly and freely assents to termination of the employment"). In concurrently filed Orders,  
5 the Court GRANTS the substitution of Attorney Mark Lapham for Attorney Rod K. Tanner as  
6 counsel of record for all three Plaintiffs in this action.

7 In light of Plaintiffs' substitution of new counsel, the Court GRANTS Plaintiffs' Request  
8 for Extension of Time to Respond to Defendant Neptune's Account, LLC's ("Neptune's Account")  
9 Motion to Quash Service of Summons and Complaint and for Dismissal of Action for Lack of  
10 Personal Jurisdiction (ECF No. 37). *See* ECF No. 45. Plaintiffs' Opposition to Defendant  
11 Neptune's Account's Motion to Quash and to Dismiss is due January 16, 2012. Defendant  
12 Neptune's Account's Reply is due February 6, 2012. The hearing on that Motion remains as set on  
13 March 1, 2012, at 1:30 p.m.

14 Also in light of Plaintiffs' substitution of new counsel, the hearing on Defendant Thomas  
15 Francis' Motion to Dismiss is hereby continued from December 8, 2011 at 1:30 p.m. to March 1,  
16 2012 at 1:30 p.m., to coincide with the hearing on Defendant Neptune's Account Motion to Quash  
17 and to Dismiss.

18 The case management conference set for December 8, 2011 at 1:30 p.m. remains as set.  
19 The parties shall file a Joint Case Management Statement by no later than Wednesday, December  
20 7, 2011, at 11:00 a.m.

21 **IT IS SO ORDERED.**

22  
23 Dated: December 5, 2011

24   
25 LUCY H. KOH  
26 United States District Judge  
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